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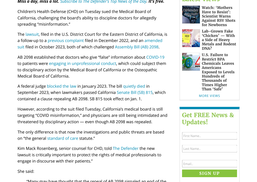
CHD Files New Lawsuit Alleging California Medical Board Still Trying to Discipline Doctors for Spreading COVID 'Misinformation'

According to a lawsuit filed Tuesday by Children's Health Defense, the Medical Board of California is still threatening disciplinary action against physicians for allegedly spreading COVID-19 "misinformation" that does not violate any law. In fact, evidence established that doctors who give "false" information about COVID—a la patients were engaging in constitutionally protected speech.

By Michael Novotalnik, Ph.D.



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Children's Health Defense (CHD) on Tuesday sued the Medical Board of California, challenging the board's ability to discipline doctors for allegedly spreading "misinformation."

The lawsuit, filed in the U.S. District Court for the Eastern District of California, is a follow-up to a previous complaint filed in September 2021 and an amended suit filed in October 2021, which Governor Assembly Bill (AB) 2098.

AB 2098 established that doctors who "engage in any false" information about COVID-19 to patients were engaging in unprofessional conduct, which could subject them to disciplinary action by the Medical Board of California or the Osteopathic Medical Board of California.

A federal judge in October 2021 temporarily blocked the bill, quickly dealt in November 2021, when lawmakers passed California Senate Bill (SB) 815, which consistent with clause violating AB 2098. SB 815 went into law Jan. 1.

However, according to the suit filed Tuesday, California's medical board is still targeting "COVID misinformation," and physicians are still being intimidated and threatened by disciplinary action — even though AB 2098 was repealed.

The only difference is that now the investigations and public threats are based on a more [illegible] standard of care statute."

Kim Mack Rossenberg, senior counsel for CHD, told The Defender the new lawsuit is critically important to protect the rights of medical professionals to engage in discourse with their patients."

She said:

> "Many may have thought that the repeal of AB 2098 signaled an end of the State of California's attempts to insert itself into the doctor-patient relationship and manipulate what doctors can and cannot tell their patients, punishing doctors who 'stray' from the government's narrative.
>
> "The repeal of AB 2098, while undoubtedly a good thing, is not the end. Instead, California's overreach and intrusion into the doctor-patient relationship continues with the same type of vague, unconstitutional statutes, 'unspoiled' protected speech and argue that these communications are not protected by the First Amendment and are subject to discipline by the patient/medical care."

The lawsuit names California Attorney General Rob Bonta, Reji Varghese, executive director of the Medical Board of California and Erika Calderon, executive director of the Osteopathic Medical Board of California.

Plaintiffs include CHD, Dr. Pierre Kory, Dr. Brian Tyson, a board-certified family practitioner who owns an urgent care facility, Dr. LaTrell Hoang, a pediatric osteopathic physician and Physicians for Informed Consent, a California nonprofit that advocates for the rights of physicians to provide evidence-based information to patients concerning vaccine risks and benefits.

Attorneys for the plaintiffs include Rosenberg, Robert F. Kennedy Jr., CHD chairman on leave, and Richard Jaffe.

According to the lawsuit, the Medical Board of California in 2023 disciplined at least one physician for "false" information, opinions, and recommendations she made to a patient about the vaccine, including her opinion the vaccine was associated with increases in miscarriages."

According to Jaffe, "A few weeks ago, the doctor agreed to surrender her medical license, but the [California] board made her fix first script in the COVID misinformation wars. But it's gotten to you, it will be to last."

Writing on his blog, Jaffe said: "The repeal [was the] of the California] COVID misinformation wars has now started ... The First Amendment will overcome the same defenses previously asserted by California that the law's terms are [not] to dictate and suppress physician free speech to patients."

Plaintiffs in the lawsuit also welcomed the news of its filing.

"This is an important step towards medical freedom to discuss important issues with patients, knowing we will not be persecuted for doing so," Tyson told The Defender. "It is important to be able to give patients full informed consent on everything we do — what are the risks and benefits, and what are alternatives, and other treatment options."

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California doctor lost license due to COVID 'misinformation'

According to the lawsuit, the California legislature and California Medical Board signaled their intent to continue pursuing physicians who expressed doctors for "misinformation" even as AB 2098 was in the process of being repealed.

The lawsuit [illegible] California Assemblymember Evan Low (D-Silicon Valley), one of AB 2098's sponsors, told the Los Angeles Times on Sept. 11, 2023, that "the Medical Board of California has the authority to revoke or suspend the licenses of medical licenses accountable for deviating from the standard of care and misinforming their patients about COVID-19 treatments."

Mr. Low's statement is consistent with the [Federation of State Medical Board's] position, which is also the Medical Board's state disciplinary action can discipline physicians for so-called COVID misinformation" in violation of AB 2098," the lawsuit states.

In July 2021, the Federation of State Medical Boards issued a press release recommending that state medical boards take disciplinary action against doctors for spreading such "misinformation."

The lawsuit states:

> "Plaintiffs seek a declaration that the Boards do not have the First Amendment constitutional authority to investigate, prosecute or sanction physicians for providing such recommendations about COVID vaccines/boosters, or on or off-label FDA approved treatments for COVID, or for any other COVID-related topics."

The plaintiffs also are asking the court to issue a declaratory judgment that it is a "First Amendment violation ... to investigate, prosecute or sanction physicians based on information, opinions, recommendations or advice they provide to patients concerning the safety and efficacy of COVID vaccines for COVID-19 treatments, dietary supplements or public health measures, such as masks.

The plaintiffs also seek "a preliminary and then permanent injunction enjoining the Defendants from commencing any such investigation or prosecution in violation of the First Amendment rights of physicians and their patients."

Rosenberg said:

> "It has been almost four years since the COVID-19 pandemic began and we have seen ... time and time again, that the recommendations provided by the government failed many patients while other treatments — which the government actively suppressed — helped many. Patients with access to doctors who shared information they ethically believed was appropriate and, indeed, critical, to discuss with patients."

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According to the lawsuit, the plaintiffs expect the defendants will argue "that all communications between a doctor and patient are part of professional's care, and hence unprotected by the First Amendment under the so-called professional speech exception."

However, the lawsuit notes the professional speech exception was specifically rejected by the U.S. Supreme Court in National Inst. Advocate & Life Advocates v. Becerra, "which involved the previous unsuccessful effort by the California Legislature to impose government control over health care professionals' protected speech."

According to Rosenberg, the U.S. Supreme Court has rejected similar intrusions by California into the doctor-patient relationship and the right of doctors to share information with their patients.

"We hope that this current unlikely success California's attempts here," Rosenberg said.

Tyson said despite the repeal of AB 2098, "there is still a fear of persecution and disciplinary actions if we have these conversations." He said he and other doctors are still being blocked on social media and censorship continues from media platforms.

"Providers always see the data and the real life of what is going on first-hand. If I report seeing myocarditis cases of COVID in the vaccinated when the CDC was reporting 100% protection, I would hope that can say that on TV and not be punished," he added.

The Defender an occasion posts content related to Children's Health Defense's nonprofit mission that focuses Mr. Kennedy's views on the issues. CHD and The Defender regularly cover. In keeping with Federal Election Commission rules, this article does not contain express advocacy of Mr. Kennedy, who is on leave from CHD and is running as an independent for president of the U.S.

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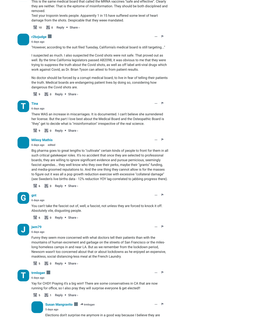
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Contraceptives will stop at nothing to stifle all speech they disagree with. Thank you CHD for taking them on!
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It's so pathetic that this country once the beacon of liberty and justice for all has only one objective: stifling any protect free people from the criminals running the country. God help us all.
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Add to that list Bulgaria's CNN (Informed Consent Action Network - icanworks.org) and attorney Aaron Siri of Siri | Glimstad out of New York and California.
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That is not true. There are several out there.
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Jacob
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Attorney Thomas Renz has also been quite instrumental in fighting this corruption.
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We need to go after those who are the real criminals, those who are aiming to prevent free speech. They are the real criminals!
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Jim Morgan
6 days ago
You but I believe that will never be done because there is just too much money flowing around and pouring into too many politicians' pockets. Nothing will change.
"Politics, we the world is commonly understood, are nothing but corruptions." Jonathan Swift
Like Reply Share
Stephen Thomson
6 days ago
Edited
Yes, the whole medical board that called the MRNA vaccines "safe and effective". Clearly they are neither. That is the epitome of criminal behavior. They should be both disciplined and prosecuted.
Their corruption knows exactly people. Apparently 1 in 15 have suffered some level of heart damage from the shots. Despicable that they were mandated.
Like Reply Share
Thomas
6 days ago
"However, according to the suit filed Tuesday, California's medical board is still targeting..."
I suspected as much. I also suspected the Covid shots were not safe. That proved out as well. By the time the Medical Board of California (MBC) was willing to do the first thing to protect the public from the Covid shots, the MBC would have had to issue a class action suit against Covid, as Dr. Brian Tyson can attest to from patient results.
The doctor should be forced by a corrupt medical board to be in fear of losing their patients the truth. Medical boards are endangering patient lives by doing so, considering how dangerous the Covid shots are.
Like Reply Share
Tina
6 days ago
I have MAS on increase in miscarriages. In a document I cant believe she surrendered her license. But the part I love best about the Medical Board and the Osteopathic Board is "they" get to decide what is "misinformation" irrespective of the real science.
Like Reply Share
Mikey Mathis
6 days ago - edited
Big pharma grows to great heights to "cultivate" certain kinds of people to front for them in all kinds of positions of power. Not just politicians, but also in the medical establishment boards they are willing to ignore significant evidence and pursue ambitious, seemingly fascist agendas... they will know who they are from peers, maybe their "grants" funding, maybe their personal ambitions, maybe their personal vices that can be used as leverage. To figure out it was all a pre-growth industrial scheme and to associate "collateral damage" (see Rosalees live births data - 15% reduction YOY kg-correlated to jabbing progress there)
Like Reply Share
gd
6 days ago
You can't take the fascist out of, well, a fascist, not unless they are forced to knock it off. Unfortunately that won't happen.
Like Reply Share
jack7
6 days ago
Funny they seem more concerned with what doctors tell their patients than with the mountains of human excrement and garbage in the streets of San Francisco or the fact that big homeless camps are a real issue. But as we remember from the lockdown period, California is run by idiots. Not to mention that the Governor has to be helped up on stage nowadays, social distancing now dead at the Oscar's. Laughs.
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Michael
6 days ago
I'm so GOOD hearing it's a big win!! There are some conservatives in CA that are now standing for office so I am sure they will surprise everyone & get elected!
Like Reply Share
Susan Manganello
6 days ago
Doctors don't accept the response in a good way because they are mostly "fixed" now.
Like Reply Share
Doctors are mostly fixed... those running for "conservatives" are really wearing masks... and I don't mean the medical kind.
Like Reply Share
Tina
6 days ago
Doctors doctors who care about their patients should form their own licensing agency as the AMA sets an all "captured" by Big Pharma.
Like Reply Share
billg
6 days ago
Never mind that the "misinformation" they speak of has since been proven true and that all of the "misinformation" they spread was actually disinformation by medical groups like the AMA, the national News media and the Biden administration.
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Paul Revere
6 days ago
The medical boards have had this authority for decades. It is called a "professional conduct. I challenge any physician in the country who thinks he or she has been more educated than me on COVID-19 to a debate. Unfortunately, I have yet to receive a challenge. I give up your 4 figure salary to advocate for a patient (the rich of us all) in the face of a corrupt system. Would you put your life on the line for a patient? There is no greater love than to give one's life for a friend. Jesus Christ said that. Are you willing to do that? Are you willing to innocent babies around? I am tired of your whining !!! Look at the Big picture you cannot ignore and while claiming to be the innocent. Covid was a blessing because it was personal. Everyone knew it. Now it is not. Now it is a political issue. Now it is a money issue. Now you do not have a voice. Remedy! What are your views now you are still righteous, over privileged, non educated scared child?
Like Reply Share
Jeanne
6 days ago
I worked for lawsuit to include the lady MD that surrendered her license. Include a request to had her license be returned not in good standing and nullify the boards decision retroactively.
Like Reply Share
Donna Allowe
6 days ago
Governor Gavin Newsom statutes his management style is:
"...ready fire aim..."
"...ignorance is normal to discovery..."
...you think 100% of the shots you don't take...
...fail fast forward...and enjoy the process."
Minute 13:45 of the Gavin Newsom video.

Children's Health Defense

Children's Health Defense® is a 501(c)(3) non-profit organization. Our mission is to end children's health epidemics by working to make our children the healthiest in the world. We combat corporate corruption, capture captured agencies, promote evidence-based science, and advocate for safeguards that put children's health above profits.

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